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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,015	09/25/2003	James T. Crunkleton III	U43142 1010.1(2.6)	7872

26158 7590 12/05/2006

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EXAMINER

KAUFMAN, JOSEPH A

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/671,015	Applicant(s) CRUNKLETON ET AL.	
	Examiner Joseph A. Kaufman	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-41, 43-64 and 66-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-16, 18-32, 34-41, 43-46, 48-62, 64 and 66-69 is/are rejected.
- 7) ☒ Claim(s) 17, 33, 47 and 63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 64 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sturman et al.

Sturman et al. shows a gas cylinder 66 having a neck, throat, plug and membrane as seen in Figure 5; valve 82; and stem 68. Sturman et al. lacks the pressure limits, capacity and material to make the gas cylinder. It would have been obvious to one of ordinary skill in the art to provide the materials, capacity and pressure as claimed as this would clearly be determined by the desired use of the container and the desired safety precautions. Such measurements do not represent a patentable departure from the teachings of Sturman et al.

3. Claims 1-10, 12-15, 18-31, 34-41, 43-46 and 48-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosko in view of Sturman et al.

Bosko shows a water supply 14; carbon dioxide supply 20; first carbonator 28; second carbonator 12; dispenser 12; and cold plate 16. Bosko lacks the details of the gas cylinder, the various pressures, percentages of carbon dioxide, and temperatures. Sturman et al. discloses a gas cylinder for a carbonated beverage as previously discussed. It would have been obvious to one of ordinary skill in the art to provide the

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gas cylinder as taught by Sturman et al. on the device of Bosko as Bosko is silent to the details of the gas cylinder and the device of Sturman et al. would provide for a portable, reliable and safe container/valve structure. Further, it would have been obvious to one of ordinary skill in the art to optimize the pressures and temperatures in order to quickly and efficiently carbonate the water. Such optimal temperatures and pressures would be determined by routine experimentation and do not represent a patentable departure from the teachings of Bosko. Further, Bosko does teach in column 3, lines 33-45 that any level of carbonation may be provided in the carbonation circuits. Therefore, it would have been obvious to one of ordinary skill in the art to provide the claimed levels of carbonation as one would clearly look to provide the drink with the correct/optimal amount of carbon dioxide.

4. Claims 16, 32 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosko as modified by Sturman et al. as applied to claims 18 and 48 above, and further in view of McCann et al.

Bosko and Sturman et al. have been discussed above, but lack the pneumatic pump. McCann et al. teaches a pneumatic pump 110 and its associated structure. It would have been obvious to provide the pump as taught by McCann et al. on the device of Bosko as modified by Sturman et al. in order to provide a motive force to the water without need for an additional power source.

Allowable Subject Matter

5. Claims 17, 33, 47 and 63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 9/27/2006 have been fully considered but they are not persuasive.

The arguments regarding the rejections over 35 U.S.C. 102 are moot in view of the amendments to the claims and the resulting changes in the rejections.

Applicant has not addressed the obvious statements regarding the pressure, material, etc., but merely states that they are not shown or would not be obvious. As the specifics of the rejections have not been addressed, the arguments are not persuasive.

Applicant argues that the McCann et al. dose not show a pneumatic pump. The tank and its associated structure provide a pressure head over the material and is thus, a pneumatic pump. As the claimed limitations are clearly met by McCann et al., the argument is not deemed persuasive.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
11/29/06

jak
November 29, 2006